

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
JAN 17 2019
D. MARK JONES, CLERK
BY _____
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IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BETH MYRER,
Plaintiff,

vs.

WRIGHT MEDICAL GROUP, INC., a
Delaware corporation, and WRIGHT
MEDICAL TECHNOLOGY, INC., a
Delaware corporation,
Defendants.

MEMORANDUM DECISION
AND ORDER

Case No. 2:18-CV-359
Judge Dee Benson

Before the Court is (1) Defendant Wright Medical Technology, Inc.'s ("WMT") Partial Motion to Dismiss Plaintiff's Complaint and Motion to Strike (Dkt. 6), and (2) Defendant Wright Medical Group, Inc.'s ("WMG") Motion to Dismiss Plaintiff's Complaint for Lack of Personal Jurisdiction (Dkt. 8). The Motions have been fully briefed by the parties, and the Court has considered the facts and arguments set forth in those filings. Pursuant to civil rule 7-1(f) of the United States District Court for the District of Utah Rules of Practice, the Court elects to

determine the motions on the basis of the written memoranda and finds that oral argument would not be helpful or necessary. DUCivR 7-1(f).

The facts and legal issues presented in the case now before the Court are strikingly similar to those in *Jorgensen v. Wright Medical Group, Inc. and Wright Medical Technology, Inc.*, Case No. 2:18-CV-366, before Judge Ted Stewart, District Judge for the District of Utah. The attorneys for the Plaintiff and the Defendants in both actions are the same and with the exception of the Plaintiffs' respective names and dates of surgery¹ the Complaints filed in the two actions are identical. (*Compare* Dkt. 2 with 2:18-CV-366 TS, Dkt. 2.)

The two motions now pending before the Court are identical to, and were filed on the same date, as two motions filed in the *Jorgensen* case before Judge Stewart. Not surprisingly, the Plaintiff's responses, Defendants' replies, and the parties' exhibits to both motions are also identical and were filed on the same dates in both cases.

On November 5, 2018, Judge Stewart issued a Memorandum Decision and Order in *Jorgensen*, granting in part and denying in part Defendant WMT's Partial Motion to Dismiss Plaintiff's Complaint and Motion to Strike. *Jorgensen v. Wright Medical Group, Inc.*, Slip Copy, 2018 WL 5792325 (D. Utah Nov. 5, 2018). The court granted the motion with respect to dismissing Counts I, V, VI, VIII, IX, and X, but denied WMT's motion to strike Plaintiff's request for punitive damages and prejudgment interest. *Id.* at *4-*5.

Additionally, on November 29, 2018, Judge Stewart issued a Memorandum Decision and

¹The Plaintiff in *Jorgensen* had both a right and left total hip replacement. (Case No. 2:18-cv-366 TS, Dkt. 2, ¶¶ 23 & 24.) The Plaintiff in the present case had only a left total hip replacement. (Dkt. 2, ¶23.)

Order granting Defendant WMG's motion to dismiss for lack of personal jurisdiction and dismissing all of Plaintiff's claims against WMG. *Jorgensen v. Wright Medical Group, Inc.*, Slip Copy, 2018 WL 6250606 (D. Utah Nov. 11, 2018).

The Court finds that the rulings issued by Judge Stewart in the *Jorgensen* action are directly applicable to the arguments and issues now before the Court, and the Court hereby adopts and incorporates the reasoning set forth therein and reaches the same results.²

In accord with the analysis and reasoning set forth in *Jorgensen v. Wright Medical Group, Inc.*, Slip Copy, 2018 WL 5792325 (D. Utah Nov. 5, 2018), it is hereby ORDERED that Defendant WMT's Partial Motion to Dismiss Plaintiff's Complaint (Dkt. 6) is GRANTED and Counts I, V, IV, VIII, IX and X are dismissed; WMT's Motion to Strike (Dkt. 6) is DENIED; and WMG's Motion to Dismiss Plaintiff's Complaint for Lack of Personal Jurisdiction (Dkt. 8) is GRANTED.

DATED this 17th day of January, 2019.



Dee Benson
United States District Judge

²Judge Stewart's rulings are attached as Exhibits A and B.